

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,) 4:20 MJ 7180 SPM
)
v.)
)
MICHAEL AVERY,)
)
Defendant.)

**GOVERNMENT'S MOTION TO VACATE OR RECONSIDER ORDER DENYING
MOTION FOR PRETRIAL DETENTION**

COMES NOW the United States of America by and through its attorneys, Jeffrey B. Jensen, United States Attorney for the Eastern District of Missouri, and Michael A. Reilly, Assistant United States Attorney for said District, and for its Motion to Vacate Order Denying Motion for Pretrial Detention, or alternatively for its Motion to Reconsider the Order Denying Motion for Pretrial Detention (Doc. # 25), states as follows:

On May 31, 2020, the United States charged Defendant by complaint with rioting in violation of 18 U.S.C. § 2101 [Doc. # 1-2]. On that same date, the United States filed its Motion for Pretrial Detention and Hearing [Doc. # 4]. On May 31, 2020, at approximately 12:45 p.m., FBI agents arrested Defendant. On June 3, 2020, the Court conducted a detention hearing [Doc. # 8-10]. On June 8, 2020, Defendant filed his Response To Pre-Trial Services Report for Purposes of Bail Determination, supported with numerous letters [“Defendant’s Response,” Doc. # 22, 14-18, 24].

On June 10, 2020, the United States attempted to file its Reply to Defendant Avery’s Response. The United States attempted to file its Reply with attachments during the afternoon

hours of June 10, 2020. The United States, via CM-ECF was unable to link its Reply to Defendant's Response, Doc. # 22, and sought direction from the Office of the Clerk of the Court. This correspondence has been detailed and conveyed to the Court and Counsel in a separate email. The United States believed its Reply was going to be filed with the Court yesterday, prior to the issuance of the Order, and served via the electronic filing system upon Counsel for Defendant.

Due to technical considerations, the Reply was not filed. In the interim, the Court issued its Order denying the Motion for Pretrial Detention [Docs. # 4, 25]. The United States requests that the Court vacate the Order Denying Motion for Pretrial Detention until it has had an opportunity to consider the information and argument contained in the Reply. Alternatively, the United States moves to set aside the Order until the Court considers the Reply. The United States further requests leave to have the Reply filed, docketed, and for the Court to consider the Reply.

WHEREFORE, based upon circumstances detailed herein, the United States requests that its Reply be filed, docketed, and that the Court vacate its Order denying the Motion for Pretrial Detention, or alternatively, that the Court reconsider its Order based upon the United States' Reply to Defendant's Response to the Pretrial Services Report.

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s/Michael A. Reilly
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CERTIFICATE OF SERVICE

I certify that on June 11, 2020, a copy of the foregoing was filed with the ECF system for service upon counsel of record.

/Michael A. Reilly
MICHAEL A. REILLY, #43908MO